

310 IAC 12-3-106 Review, public participation, and approval or disapproval of permit applications; permit terms and conditions; responsibility

Authority: IC 14-34-2-1

Affected: IC 14-34

Sec. 106. (a) An applicant for a permit, or revision or renewal of a permit, shall place an advertisement in a newspaper of general circulation which is published in the county in which the proposed surface coal mining and reclamation operation is located at least once a week for four (4) consecutive weeks. As used in this section, "published" refers to the process of composing, issuing, and distributing the newspaper to the public and does not refer only to the mechanical work of printing. If the proposed operation lies within more than one (1) county, the advertisement shall be placed in one (1) newspaper in each county where the proposed operation will lie. The applicant shall place the advertisement in the newspaper at the same time the complete permit application is filed with the director. The advertisement must include, at a minimum, the following information:

- (1) The name and business address of the applicant.
- (2) A map or description which accomplishes all of the following:
  - (A) Clearly shows or describes the exact location and boundaries of the proposed permit area, including:
    - (i) a legal description of the area by quarter, quarter section, township, range, and county; and
    - (ii) the distance and direction of the site from a town, city, or another permanent feature sufficient for the operation to be readily located by a local resident.
  - (B) States the name of each United States Geological Survey seven and five-tenths (7.5) minute quadrangle map which contains the area described.

If a map is used, it shall indicate the north direction.

- (3) The location where a copy of the application is available for public inspection.
- (4) The names of the property owners of the property included in the application.
- (5) The name and address of the director to which written comments, objections, or requests for informal conferences on the application may be submitted under sections 107 through 109 of this rule.
- (6) If an applicant seeks a permit to mine within one hundred (100) feet of the outside right-of-way of a public road or to relocate or close a public road:
  - (A) a concise statement describing the public road;
  - (B) the particular part to be relocated or closed;
  - (C) where the relocation or closure is to occur; and
  - (D) the approximate timing and duration of the relocation.
- (7) A copy of the advertisement shall be mailed to the following:
  - (A) Each person identified in the application as owners of record of all surface and subsurface areas adjacent to any part of the permit area.
  - (B) Every person who has requested notice of such application.
- (8) If the application includes a request for an experimental practice under section 94.1 of this rule, a statement indicating that an experimental practice is requested and identifying the regulatory provisions for which a variance is requested.
- (9) The applicant shall make an application for a permit, or significant revision or renewal of a permit under sections 121 through 125 of this rule, available for the public to inspect and copy by filing a full copy of the application or permit with the appropriate library as required by this section. This copy of the application need not include confidential information exempt from disclosure under sections 17, 31, and 110 of this rule.

(b) The applicant must file in the main public library identified in this subsection, for each county where the proposed mining is to occur, a complete copy of the application submitted to the director. This copy of the application is available for public inspection and reproduction. The main public library is the main branch of the library specified for the county as follows:

- (1) Clay County, Brazil Public Library.
- (2) Crawford County, Crawford County Public Library.
- (3) Daviess County, Washington Carnegie Public Library.
- (4) Dubois County, Jasper Public Library.
- (5) Fountain County, Covington Public Library.
- (6) Gibson County, Princeton Public Library.
- (7) Greene County, Linton Public Library.

- (8) Knox County, Knox County Public Library.
- (9) Lawrence County, Lawrence County Public Library.
- (10) Martin County, Shoals Public Library.
- (11) Monroe County, Monroe County Public Library.
- (12) Orange County, Paoli Public Library.
- (13) Owen County, Spencer-Owen County Public Library.
- (14) Parke County, Rockville Public Library.
- (15) Perry County, Tell City-Perry County Public Library.
- (16) Pike County, Petersburg and Pike County Public Library.
- (17) Posey County, Alexandrian Free Public Library.
- (18) Spencer County, Rockport-Ohio Township Public Library.
- (19) Sullivan County, Sullivan County Public Library.
- (20) Vanderburgh County, Evansville-Vanderburgh County Public Library.
- (21) Vermillion County, Clinton Public Library.
- (22) Vigo County, Vigo County Public Library.
- (23) Warrick County, Boonville-Warrick County Public Library.
- (24) Warren County, Williamsport-Washington Township Public Library.

(c) The applicant shall file the copy of the complete application under subsection (a)(9) by the first date of the newspaper advertisement of the application. The applicant shall file any subsequent modification of the application in the library described in subsection (b) for each county where mining is to occur at the same time the modification is submitted to the director.

(d) This subsection establishes standards with respect to the placement of a copy of the application in a library as required under subsections (b) through (c) as follows:

- (1) The applicant shall pay the library a fifty dollar (\$50) nonrefundable fee.
- (2) The applicant may remove the application or permit from the library only after all bond has been released from the permit.
- (3) If the applicant does not remove the application or permit from the library, the library, at its discretion, may return the application or permit to the applicant or destroy it after all bond has been released from the permit or retain the application or permit as its own.
- (4) An accurate and complete copy of the application or permit, except information exempted from public disclosure under sections 17, 31, and 110 of this rule, shall remain on file at the library and the office of the division of reclamation nearest the mining operation until final bond release and shall be available for public inspection and copying at a reasonable charge during normal business hours.
- (5) The applicant shall not be responsible for the maintenance of the copy of the application on file with the library.

(e) Upon receipt of a complete application for a permit or a revision or renewal of a permit, the director shall issue written notification of the following:

- (1) The applicant's intention to surface mine a particularly described tract of land.
- (2) The application number.
- (3) Where a copy of the application may be inspected.
- (4) Where comments on the application may be submitted under section 107 of this rule.

(f) A copy of the written notification described in subsection (e) shall be sent to the following:

- (1) Federal, state, and local government agencies with jurisdiction over or an interest in the area of the proposed operations, including the United States Department of Agriculture Soil Conservation Service, the United States Army Corps of Engineers, the National Park Service, state and federal fish and wildlife agencies, and the state historic preservation officer.
- (2) Governmental planning agencies with jurisdiction to act with regard to land use, air, or water quality planning in the area of the proposed operation.
- (3) Sewage and water treatment authorities and water companies either providing sewage or water services to users in the area of the proposed operations or having water sources or collection, treatment, or distribution facilities located in these areas.
- (4) Operators of any pipeline located within the permit area or the adjacent area.
- (5) The federal or state governmental agencies with authority to issue all other permits and licenses needed by the applicant in connection with operations proposed in the application.

(g) To avoid duplication, the director shall provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with applicable requirements of the following:

- (1) The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).
- (2) The Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661 et seq.).
- (3) The Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 et seq.).

(4) The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).

(5) The Bald Eagle Protection Act as amended (16 U.S.C. 668a).

*(Department of Natural Resources; PT 786.11; filed Sep 28, 1981, 1:30 p.m.: 4 IR 2275; errata, 6 IR 127; filed Feb 11, 1985, 8:44 a.m.: 8 IR 588, eff Aug 1, 1985; filed Apr 30, 1990, 3:50 p.m.: 13 IR 1624; filed Apr 30, 1990, 3:55 p.m.: 13 IR 1648, eff Nov 1, 1993; errata filed May 4, 1990, 4:30 p.m.: 13 IR 1722; errata filed Jun 18, 1990, 9:50 a.m.: 13 IR 2003; filed Oct 18, 1990, 9:35 a.m.: 14 IR 424, eff Oct 1, 1993; filed Mar 21, 1995, 2:00 p.m.: 18 IR 2002, eff upon the approval of the Office of Surface Mining and Reclamation of the U.S. Department of the Interior and notice of that approval being published in the Indiana Register; filed Feb 9, 1999, 5:16 p.m.: 22 IR 1943, eff Aug 1, 1999)*